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C O N F I D E N T I A L DAMASCUS 000780

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DEPARTMENT FOR NEA/ELA, DRL/NESCA  
NSC FOR SHAPIRO/MCDERMOTT  
LONDON FOR LORD, PARIS FOR NOBLES

E.O. 12958: DECL: 11/05/2019  
TAGS: PREL PHUM PGOV ECIN KDEM SOCI SY  
SUBJECT: THE CURIOUS CASE OF HAITHAM MALEH: HUMAN RIGHTS  
AND THE EU

REF: A. DAMASCUS 00534  
1B. DAMASCUS 00735  
1C. DAMASCUS 00747

Classified By: CDA Charles Hunter for reasons 1.4 (b) and (d)

¶1. (C) Summary: The first formal stage of human rights activist Haitham Maleh's trial before the Military Court in Damascus began on October 25. The court charged Maleh with publishing false information that might weaken the national sentiment, and defaming the judiciary. Though diplomatic observers were denied access to the hearing, they were able to consult with Maleh's attorneys and family members on what had occurred. Maleh reportedly endures harsh prison conditions and his next court appearance remains unscheduled.

According to the Military Court's Prosecutor General, without an approved formal request to the Ministry of Foreign Affairs, observers from diplomatic missions will no longer be able to attend hearings. Maleh's case continues to insert itself into press reports and high-level discussions on the delayed signing of the Syria-EU Association Agreement. End Summary.

¶2. (C) The Damascus Military Court charged Haitham Maleh on October 25 with (1) spreading false information that might weaken the national sentiment, punishable by three to 15 years in prison, and (2) defamation of the judiciary system, a misdemeanor charge. Originally, Maleh had faced the allegation of insulting the President, but the court did not pursue the charge. He is currently being held in Adra prison, along with his former client, human rights lawyer Muhanad al-Hasani (ref A), and many incarcerated members of the Damascus Declaration National Council. His trial was tentatively scheduled to resume on October 27 or 28, but it appears no hearing took place, nor do lawyers have knowledge of when the trial will resume.

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Diplomats Denied Access to Court  
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¶3. (C) Diplomatic representatives who attempted to enter the Military Court on October 25 were reportedly told by the

Court's Prosecutor General that without express permission from the MFA, no access would be permitted since the Court was officially a military site. To attend a specific hearing would require, they learned, permission via a diplomatic note. Yet diplomats witnessed civilian Syrians, many of whom were actually civil society activists, enter the premises without being stopped and questioned.

¶4. (C) Though denied entrance on October 25, diplomatic representatives were able to meet with two of Maleh's lawyers, Abdel Razak Izriek and Baha Rakkad, after the hearing outside the Court. According to Izriek and Rakkad, Maleh was questioned about writings critical of the regime as well as an interview he gave on Barada TV. Maleh reportedly admitted to everything at the hearing. When the lawyers petitioned the court to release Maleh on bail for the duration of the trial, the judge summarily denied the request with the retort: "It will be a quick trial, no release is necessary," the lawyers reported. Human rights lawyer Khalil Matuk will also represent Maleh in future hearings.

¶5. (C) Maleh, who is 78, suffers from high blood pressure and other age-related illnesses. According to the lawyers, Maleh had not yet received any of his medications, despite earlier efforts by family members to pass them to him during his detention. A military prosecutor last week reportedly told Maleh's family that it was up to a prison doctor to provide him with medication. At his October 25 court appearance, Rakkad and Izriek said Maleh, though unshaven and wearing a prison uniform, seemed in good spirits.

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#### Reaction to White House Statement

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¶6. (C) Within two days of the October 24 White House statement on Maleh's arrest, many international and regional Arab-language press outlets ran the story, including Reuters Arabic, AFP Arabic, Al-Mustaqbal Daily (Beirut), the Kuwait News Agency, Radio Sawa (Beirut). Notably absent, though not surprising, was any local press coverage of the statement. The reaction in diplomatic circles was overwhelmingly appreciative. The Canadian and British Ambassadors, as well as representatives from the European Commission Delegation, praised the statement. Human rights contacts uniformly supported the White House statement, with one contact happily noting the language was stronger than the British and French statements. Prior to the U.S. statement, the Foreign Ministries of first France then the U.K. made public statements. A week after the White House statement, the Canadian FM also called for Maleh's release. In fact, the Canadian statement went so far as to identify Maleh's case as part of a recent pattern of arbitrary arrests; the statement also decried the closure of the Syrian Center for Media and Free Expression.

#### ----- Embassies' Efforts Elicit "Goldstone Reproach"

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¶7. (C) The Canadian Ambassador, having had a personal acquaintance with Maleh, reacted strongly to Maleh's detention and has continued to press the MFA on the issue. Following Maleh's arrest, the Canadian Embassy drafted a diplomatic note requesting a meeting with Vice Minister of Foreign Affairs Faisal Miqdad. The Ambassador's request was denied. The Embassy then drafted a second diplomatic note outlining Canadian concern over the arrest. The MFA replied in writing that Maleh had violated Syrian law and would be judged accordingly. The note also expressed the MFA's displeasure over Canadian interference in Syria's "internal affairs." In what Canadian diplomats described as a sharply worded final paragraph, the MFA accused Canada of "duplicity," noting Canada had done nothing for Gaza and had tried to obstruct the Goldstone Report. Undeterred by the MFA's rebuke, the Canadian Ambassador sent a diplomatic note

requesting permission to attend Military Court hearings. Chief of Protocol Dr. Abdullatif Dabbagh refused him verbally in a phone call.

¶8. (C) The Norwegian Embassy reported its Ambassador had raised Maleh's case with Presidential Advisor Bouthaina Shaaban only to be met with a response similar to what the Canadians received -- namely, Norway maintained double standards on human rights, specifically regarding its position on the Goldstone Report. In fact, the "Goldstone Report" has become the SARG's "Goldstone Reproach," used by SARG officials as a parrying tactic for all things human rights. A Finnish diplomat told us that both the Finnish President, during her November visit to Damascus, and the Swedish Embassy had been confronted with similar responses from government officials when they had raised human rights issues.

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What EU Association Agreement Connection?

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¶9. (C) The timing of the SARG's delay in signing the EU Association Agreement and Maleh's arrest remains an object of much discussion among diplomatic observers and local civil society activists. Press reports continue to suggest the delay stemmed, in part, from the emphasis on human rights attached to the agreement. The regime has consistently denied this, cleaving to the position that economic issues alone warranted the reexamination. George Baghdadi (strictly protect), a local fixer for the international press corps,

told us the arrest of Muhanad al-Hasani had been a trial run to see how far the SARG could push the EU. The lack of any significant international outcry emboldened SARG security enough to make a stab at an activist with a higher international profile. He further surmised there were members of the Sunni business elite who opposed the Agreement on the grounds it would render local businesses non-competitive with their European counterparts and that these businessmen had used their regime and security connections to initiate Maleh's arrest with the hopes of scuttling the Agreement. (Note: The EU Parliament did pass a formal resolution condemning Hasani's arrest and various international NGOs published calls for his release. End note.)

¶10. (C) The Norwegian Ambassador mused about the possible connection between the two events in an October 29 meeting with the Charge. Given the timing with EU Agreement, he said, the arrest struck him as counter-intuitive. He speculated Maleh's arrest might underscore the security apparatus's relative operational independence vis--vis the Palace and MFA. In a November 5 meeting with the Charge, the Hungarian Ambassador voiced the same opinion on the lack of coordination between security and other governmental bodies.

¶11. (C) Members of the European Commission Delegation in Damascus were quick to tell us no such connection between the SARG's dislike of human rights language and the signing delay existed. One contact characterized the coincidence as dismaying, but not conspiratorial. The delay, he speculated, was most likely the result of the EU's press leak (ref B), but might also reflect the lobbying efforts of private business interests in the country that had gained new regime footholds thanks to internal rifts produced by the power-struggle related to PM Utri's illness and his anticipated departure from the Cabinet. Following the SARG's announcement that a careful "cost/benefit analysis" of the Agreement had still to be conducted, the EC informed the SARG it was prepared to assist in any way with the "technical exercise." So far, the delegate told us, nobody from the SARG had approached the EC for any technical or explanatory assistance. This signified, he said, the delay was not based on economics, but was political. After all, the delegate pointed out, the Syrians had negotiated the text, so they were fully aware of its contents and its impact.

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Jordanian Perspective

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¶12. (C) In a noteworthy moment of solidarity with Syrian talking points, a Jordanian diplomat told us during an October 22 meeting, apropos of nothing, that Syria's stalling on the EU Agreement was more related to economic considerations than human rights. He said SARG officials had queried Jordanian officials as well as a former Algerian Foreign Minister, who was in Damascus in early October, about "what they had received" from the EU in advance of signing similar agreements. The Jordanian claimed his Syrian interlocutor complained about the Algerians having received a large assistance package prior to their signing, whereas Syria had been offered nothing in advance. Given Syria's improved relations with the U.S., Turkey, and Saudi Arabia, the Jordanian diplomat assessed, the SARG felt itself to be in a superior negotiating position than when they had first embarked on negotiating with EU. The agreement was now less crucial to lessening Syria's isolation.

¶13. (C) Comment: Haitham Maleh's trial will be a closely watched affair, as will the international reaction to it. Denying the Canadian Ambassador access to the Military Court shows just how concerned the SARG is about the trial's coverage, and the potential damage it could do to the SARG in the world court of public opinion.

¶14. (C) Comment continued: The regime's facility in playing one group against another, both domestically and internationally, and then crowing over its role as the essential middle player, is well established. Yet Maleh's arrest evinces to a degree what the political dissident Michel Kilo told us recently (ref C) -- namely, Bashar al-Assad's grip at home has never been fully established. We assess political in-fighting and pressure from powerful actors who fear the Agreement's economic impact were the primary reasons behind Syria's decision to delay the signing. Nevertheless, while the timing of Maleh's arrest may not be linked to the delay, it is now perceived to be. The persistent sensitivity to human rights and the EU Association Agreement, questions of causality aside, might offer an opportunity to impress upon Syrian interlocutors that bilateral relations can go forward only if negotiations are open enough to include a candid exchange of views on controversial topics. The SARG will continue to deploy the "Goldstone Reproach" to deflect discussions on support for Hamas and Hezbollah, as well as human rights, until objecting nations articulate a strong and coordinated response. End Comment.  
HUNTER